

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

In re TERRORIST ATTACKS ON
SEPTEMBER 11, 2001

Case No. 1:03-md-01570-GBD-SN

This document relates to:

The Underwriting Members of Lloyd's Syndicate 2, et al. v. Al Rajhi Bank, et al., No. 16-cv-7853; Aguilar, et al. v. Kingdom of Saudi Arabia, et al., No. 16-cv-09663; Adesso, et al. v. Kingdom of Saudi Arabia, et al., No. 16-cv-09937; Hodges, et al. v. Kingdom of Saudi Arabia, et al., No. 17-cv-00117; Aiken, et al. v. Kingdom of Saudi Arabia, et al., No. 17-cv-00450; Charter Oak Fire Insurance Co., et al. v. Al Rajhi Bank, et al., No. 17-cv-02651; Abarca, et al., v. Kingdom of Saudi Arabia, et al., No. 17-cv-03887; Arrowood Indemnity Co., et al. v. Kingdom of Saudi Arabia, et al., No. 17-cv-03908; Abedhajajreh v. Kingdom of Saudi Arabia, et al., No. 17-cv-06123; Fraser, et al. v. Al Qaeda Islamic Army, et al., No. 17-cv-07317; Muenchener Rueckversicherungs-Gesellschaft Aktiengesellschaft in Muenchen, et al. v. Kingdom of Saudi Arabia, et al., No. 17-cv-07914; and Abbate, et al. v. Kingdom of Saudi Arabia, et al., No. 17-cv-08617.

[PROPOSED] DEPOSITION PROTOCOL

I. General Provisions

1. This Order sets forth the deposition protocols between Plaintiffs and Al Rajhi Bank (the "Parties") applicable to depositions of all fact witnesses (including non-party witnesses and witnesses under Federal Rule of Civil Procedure 30(b)(6)) in the context of authorized limited jurisdictional discovery concerning Plaintiffs' claims against Al Rajhi Bank.
2. Nothing in this Order shall preclude any Party or witness to which or whom this Order applies from seeking to modify it later for good cause shown; prior to doing

so, however, counsel shall meet and confer among themselves in a good-faith effort to reach agreement as to the appropriate scope of any modifications or revisions to this Order.

3. The sides may stipulate to different arrangements or rules other than those specified in this Order, except as to the deadlines in paragraph 6.
4. Prior pretrial Orders entered in this MDL, including the Protective Order this Court entered on October 3, 2006 (ECF No. 1900), remain in effect to the extent that they are not in conflict with the provisions of this Order. To the extent that this Order conflicts, or is alleged to conflict, with rights or protections afforded by the national laws, rules, or regulations of any foreign country or by international treaty, counsel for the witness or Party claiming those rights and protections shall meet and confer with opposing counsel regarding a resolution of the alleged conflicts. If the Parties cannot reach agreement, the issue(s) shall be submitted promptly for judicial resolution.
5. Federal Rule of Civil Procedure 6(a) shall govern the computation of time periods set forth in this Order. Unless specifically modified herein, nothing in this order shall be construed to abrogate the Federal Rules of Civil Procedure.
- 6.

Plaintiffs' Proposal	Al Rajhi Bank's Proposal
The Parties shall complete all fact depositions on or before May 18, 2023. No further extensions of jurisdictional discovery against Al Rajhi Bank will be granted, except upon a showing of good cause, which shall be presumed to exist in the event a deposition is timely noticed pursuant to this Protocol but delayed by an objection that is not resolved in time for the deposition to proceed by the May 18, 2023 deadline.	The Parties shall complete all fact depositions on or before May 18, 2023. No further extensions of jurisdictional discovery against Al Rajhi Bank will be granted.

7. The Plaintiffs shall identify any fact witnesses from whom they have reason to expect they will present a declaration 45 days before the deadline for fact depositions, and if requested, provide the addresses of those witnesses so that they may be subpoenaed for deposition or arrange for service of deposition subpoenas by the other side. The Plaintiffs shall promptly supplement such identification if additional witnesses become amenable to submitting declarations, and the Defendant shall be afforded an opportunity to depose the declarant. Any declaration from such a witness shall be produced on the earlier of: (a) 14 days prior

to that witness's deposition; or (b) 30 days before the deadline for fact depositions. Plaintiffs may not use any fact witness declaration (other than a declaration to establish authenticity or admissibility of documents) with respect to the renewed motion to dismiss, if the Defendant has not been afforded a reasonable opportunity to depose the declarant or if the declaration is not produced by the deadline set forth in this paragraph.

II. Deposition Notices, Scheduling, and Logistics

8. All depositions shall be noticed and conducted pursuant to the Federal Rules of Civil Procedure and this Order.
9. Each deposition notice shall comply with Federal Rule of Civil Procedure 30(b) and shall include:
 - The name of the proposed witness (except for a Rule 30(b)(6) deposition notice);
 - The date, time, and location of the deposition; and
 - A statement as to whether the deposition will be video recorded in addition to being recorded by stenographic means.
10. This Order, in its entirety, shall be attached to any subpoena or deposition notice for a non-party's deposition.
11. Notices for depositions shall be served by e-mail, facsimile, or other electronic means.
12. Counsel shall confer before noticing a deposition in an effort to schedule depositions for mutually convenient dates, times and locations. To the extent that a proposed witness is unable to be deposed on the noticed date of his or her deposition, counsel shall promptly confer to discuss alternative dates.
13. Counsel are expected to cooperate and coordinate the scheduling of depositions in an effort to accommodate all counsel and Parties and to schedule the depositions in the most efficient manner feasible regarding date, time, and location. Toward that goal, counsel shall meet and confer to develop a plan for scheduling depositions that will maximize efficiency and control costs by attempting to schedule witnesses to be deposed in blocks of time, especially where the depositions are scheduled to occur outside of the United States.
14. To ensure the expeditious progress of this litigation, in the event that counsel are unable to reach agreements—either advance agreement on dates, times and location, or agreement as to blocks of depositions to be scheduled—the noticing Party may notice the deposition in accordance with this Order; should any other Party or the witness maintain a need for relief thereon, such request for relief shall be submitted promptly for judicial resolution.

15. A deposition notice may be served at any time, provided that it is served sufficiently in advance of the close of fact discovery so that the deposition takes place before the close of fact discovery. To allow for planning, preparation, and coordination, depositions to be conducted virtually may be noticed fourteen (14) days before they are scheduled to occur. Because additional planning, preparation, coordination, and travel may be attendant, depositions conducted in person, either outside the United States or of persons residing outside of the United States, must be noticed at least twenty-one (21) days before they are scheduled to occur.
16. For witnesses who reside or work in the United States, a deposition may take place within (a) the county in which the deponent resides, (b) the county in which the deponent is employed, (c) the judicial district of the MDL Court, or (d) a mutually agreeable location.
17. For those witnesses who reside outside of the United States, a deposition shall take place at the witness's principal place of business. If a Party's counsel is unable or unwilling to travel to the location of a deposition, then that deposition may proceed by videoconference.
18. If the Parties and deponent agree, the deposition may be taken by videoconference.
19. The costs of the deposition venue and, if applicable, the costs of securing a court reporter shall be borne by the Party noticing the deposition.
20. For any notice of deposition where there is an accompanying request for the production of documents, the producing Party shall, within seven (7) days of receipt of such notice, alert counsel for the noticing Party of any reason that the requested documents cannot be produced a minimum of seven (7) days prior to the date noticed for the deposition.

III. Number of Depositions Allowed

21.

Plaintiffs' Proposal	Al Rajhi Bank's Proposal
Plaintiffs may serve a single Rule 30(b)(6) deposition notice on Al Rajhi Bank listing all topics on which Plaintiffs seek Rule 30(b)(6) testimony. To the extent Plaintiffs intend to serve any Rule 30(b)(6) deposition notice, it must be served no later than six (6) weeks before the close of the fact deposition period. Plaintiffs may amend their 30(b)(6) notice based on documents produced in discovery subsequent to the date of this Protocol,	Plaintiffs may serve a single Rule 30(b)(6) deposition notice on Al Rajhi Bank listing all topics on which Plaintiffs seek Rule 30(b)(6) testimony. To the extent Plaintiffs intend to serve any Rule 30(b)(6) deposition notice, it must be served no later than six (6) weeks before the close of the fact deposition period.

for good cause and no less than two weeks before the date of the deposition. Nothing in this provision shall be construed to limit ARB's right to object to any amendment of the 30(b)(6) notice.	
---	--

22. Unless otherwise agreed by the Parties or ordered by the Court, depositions shall not be taken on days that would interfere with a deponent's religious observances. In addition, counsel and Parties shall also use their best efforts to accommodate any conflict due to religious observance of counsel whose participation in the deposition is necessary.

IV. **Touhy Requests**

23. Access to the testimony of a current or former government employee is often restricted by U.S. or state law or regulation and may only proceed with government permission upon request (a "*Touhy* request"). The sides shall meet and confer on the subjects to be included in a *Touhy* request so that the request includes all topics desired by both sides.

V. **Rescheduling and Resolution of Deposition Disputes**

24. Any Party or witness that receives notice of a deposition and disputes the timing or scheduling of the deposition or that otherwise objects to the deposition shall send the Party seeking the deposition a written objection to the deposition no more than five (5) days after the objecting Party receives notice of the deposition. Before bringing to the Court's attention the dispute(s) raised in the objection, the Parties must first attempt to resolve the dispute(s) in good faith. If counsel are unable to resolve the dispute(s) identified in the objection after good faith efforts to do so, the dispute(s) may be presented to the Court for resolution no more than fourteen (14) days after the deposition notice was served. The Parties may agree to shorten the time periods to expedite the Court's attention to the dispute(s). A deposition notice is not suspended until such time as the Party opposing the deposition notice serves and files a written motion bringing the dispute(s) to the Court's attention. In the event of such a motion, the deposition shall not go forward unless (a) the Parties and the deponent reach an agreement in writing to resolve the objection or (b) the Court resolves the objection and permits the deposition to take place. Pursuant to Federal Rule of Civil Procedure 26, the burden shall be on the Party or witness seeking to quash or otherwise limit the notice to demonstrate why an order should issue protecting the Party or witness from the discovery sought.
25. A Party shall make a motion regarding a deposition by submitting a letter of not more than three (3) single-spaced pages setting forth its position and the Parties' efforts to resolve the dispute. The other side may then submit a responding letter

of no more than three (3) single-spaced pages within five (5) days of the filing of a letter motion.

26. Once a deposition has been scheduled and no timely motion is made concerning the deposition within fourteen (14) days before the scheduled date for the deposition, the deposition shall proceed as scheduled, except upon written agreement by both sides or for good cause.
27. Disputes regarding any matters arising under this Order pertaining to a deposition shall, in the first instance, be brought before this Court rather than the district court in the district in which the deposition is being conducted.
28. Disputes arising during depositions that cannot be resolved by agreement and that, if not immediately resolved, will significantly disrupt the discovery schedule, require rescheduling of the deposition, or possibly result in a request to conduct a supplemental deposition, shall be presented to Court by telephone. In the event the presiding Judge or Magistrate Judge are not available, all efforts will be made to go forward with the deposition as to matters not in dispute with full reservation of rights for a ruling at the earliest possible time.
29. If the nature of the dispute would not stop the deposition from going forward, the Parties may agree among themselves either to present the matter to the Court by telephone or to present the dispute in writing.
30. The court reporter shall make a transcript of any telephonic proceeding with the Court, which shall be transcribed immediately and bound separately. Nothing in this Order shall deny counsel the right to (1) suspend a deposition pursuant to Federal Rule of Civil Procedure 30(d)(3); or (2) file an appropriate motion with the Court after the deposition and appear personally before the Court.

VI. Recording

31. A court reporter who qualifies as such consistent with Rules 28 and 30(b)(5)(A) of the Federal Rules of Civil Procedure shall stenographically record all deposition proceedings and testimony and provide a “real time” transcription feed to devices such as tablets and computers, including computers not located at the deposition venue. The court reporter shall administer the oath or affirmation to the deponent. The written transcript prepared by the court reporter shall constitute the official record of the deposition for purposes of the requirements under Rule 30 of the Federal Rules of Civil Procedure concerning filing, retention, certification, and the like.
32. A Party may cause a deposition to be video recorded by so indicating in its Notice of Deposition or by providing written notice no less than ten (10) days before the deposition by email to the witness and Plaintiffs’ and Defendants’ Executive Committees that the deposition will be video recorded. The Party causing a deposition to be video recorded shall be responsible for arranging a videographer and bearing the costs of that videographer’s attendance.

33. Services or products offered or provided by the videographer must be offered to counsel for all Parties, regardless of which Party is financing the video recording of the deposition. Further, any videographer is subject to the orders of this Court, including but not limited to the Protective Order (ECF No. 1900). The videographer shall be given a copy of all applicable orders at least five (5) days before the deposition.
34. The videographer is subject to the provisions of Federal Rule of Civil Procedure 28(c). The videographer shall record the proceedings fairly and accurately.
35. Each witness, attorney, and other person attending the deposition (in person, electronically, or telephonically) shall be identified on the record at the commencement of the deposition. The video recording shall include the court reporter administering the oath or affirmation to the witness. Thereafter, the deponent and, if necessary, exhibits and any demonstratives will be video recorded.
36. The video recording of the deposition will be conducted in a manner to replicate, to the extent feasible, the presentation at trial. Unless physically incapacitated, the deponent shall be seated at a table except when reviewing or presenting demonstrative materials for which a change in position is needed. To the extent practicable, the deposition will be conducted with the witness seated in front of a solid background with only such lighting as is required for accurate video recording. Lighting, camera angle, lens setting, and field of view will be changed only as might be reasonably necessary to record accurately the natural body movements of the deponent or to portray exhibits and materials used during the deposition. Sound levels will be altered only as necessary to record satisfactorily the voices of counsel and the deponent.
37. Video recording will be suspended during all “off the record” discussions and the videographer shall note such suspensions. The deposition will remain “on the record” absent agreement of counsel.
38. At the conclusion of the deposition, a statement shall be made on the video recording, on the audio recording, and in the stenographic record that the deposition has concluded and will set forth any stipulations between the Parties that have not already been placed on the record.
39. The videographer shall use recording equipment with an appropriate timer and, unless otherwise agreed to by the Parties, shall prepare and provide counsel with a log, cross-referenced with timestamps, that identifies the portion of the recording at which examination by different counsel begins and ends and when there is any interruption of continuous video recording, whether for recess, “off the record” discussions by counsel, mechanical failure, or other interruption.
40. The videographer shall maintain custody of the original video medium in its original condition, without editing in any fashion.

41. The video and audio recordings shall be treated the same as the transcript pursuant to both this Order and the Protective Order (ECF No. 1900) and any modifications of those orders.
42. Absent agreement, each side shall bear its own costs in securing copies of the deposition transcript and exhibits, or recording.

VII. Attendance

43. Unless otherwise agreed to by the Parties or ordered under Federal Rule of Civil Procedure 26(c), and subject to the terms of this Court's Protective Order at (ECF No. 1900 ("Protective Order")), depositions may be attended (either in person or remotely) only by the witness, and counsel for the witness; attorneys of record in this MDL Proceeding, court reporters, videographers, and any person who is assisting in the litigation, and the Parties, their in-house counsel, and corporate officers. All persons in attendance (either in person or remotely) must be noted on the deposition record. However, corporate officers who are being deposed as fact witnesses or as a 30(b)(6) designee shall not be permitted to attend or have access to transcripts or video recordings of depositions, prior to their own depositions. To facilitate planning for all attendees and the witness, any party that expects to question the witness (other than Plaintiffs, Al Rajhi Bank, or counsel for the witness) shall notify counsel for Plaintiffs, ARB and the witness at least 14 days in advance and provide an estimate of the time needed for the proposed questioning.
44. Upon motion, and for good cause shown, the Court may permit attendance by a person who does not fall within any of the categories above or prohibit attendance by a person who does fall within any of the categories.
45. While a deponent is being examined about any information subject to the Protective Order (ECF No. 1900), persons to whom disclosure is not authorized shall be excluded.
46. To ensure adequate facilities, not fewer than fifteen (15) days prior to the deposition, whenever feasible, counsel intending to attend in person a noticed deposition should advise counsel for the other Party how many permitted persons counsel expects to bring to the deposition. Counsel will then confer regarding the expected attendance and make a final determination not fewer than five (5) business days prior to the scheduled date as to who is likely to attend the deposition in person and remotely.
47. Unnecessary attendance by counsel is discouraged and may not be compensated in any fee application to a court.

VIII. Remote Participation

48. If a person permitted to attend the deposition requests to participate remotely by telephone or video conference at least ten (10) days before a deposition, telephone and/or video conference facilities shall be provided so that such persons wishing to

participate in the deposition by telephone or video conference may do so at their own expense. Any person attending remotely must be identified on the deposition record.

49. By indicating in a deposition notice that it wishes to examine a witness over the telephone or by video conference, a noticing Party shall be deemed to have moved for such an order under Federal Rule of Civil Procedure 30(b)(4). Unless an objection is filed and served within five (5) days after such notice is received, the Court shall be deemed to have granted the motion. All persons present in the location with the deponent shall be identified on the deposition record and shall not by word, sign, or other means coach or suggest answers to the deponent and shall act in accordance with applicable Federal Rules of Civil Procedure and rules of professional conduct governing interaction with the deponent.
50. Technical difficulties with telephonic or video conference participation shall not constitute grounds for postponing the deposition or for rendering inadmissible a deposition that otherwise would be admissible in evidence. If technical problems with the telephonic or video conference facilities create disruptions in the deposition, counsel attending a deposition in person may discontinue telephonic or video conference participation for such periods of time as necessary.
51. To the extent economically feasible, Parties may seek to participate in the deposition at locations that are remote from the deposition venue through the use of video streaming over secure Internet connections. The Parties shall use their best efforts to provide for remote real-time participation by interested counsel, such as through the use of a private group chat system that enables remote counsel to observe the witness through video and audio broadcast. The viewing of or participation in any deposition via the Internet is expressly subject to the Court's Protective Order (ECF No. 1900). No one apart from the Party-appointed videographer and the court reporter may record the deposition by video or audio means. Persons participating in the video stream shall bear its costs and be responsible for making arrangements to create the video stream, are responsible for providing his or her own Internet connection, and shall be identified on the deposition record.

IX. Duration of Depositions

52. Whenever feasible, depositions of fact witnesses should be completed in a single day. All questioning by the noticing side shall be limited to seven (7) hours. During the scheduling of a deposition, prior to noticing a deposition, if a side believes there is an exception to the 7-hour limitation on the taking of a deposition, then the Parties shall meet and confer to reach an agreement.
53. The non-noticing side of the deposition will also be permitted to question the witness for up to seven (7) hours. To the extent the non-noticing side of the deposition reasonably anticipates that its questioning of the witness will exceed ninety minutes, it will provide notice at least ten (10) days before the scheduled

deposition, so arrangements can be made for the deposition to continue into an additional day, if necessary; provided, however, that this provision shall not be interpreted to preclude any Party on the non-noticing side from questioning a witness for the time that Party may deem necessary up to its limit of seven (7) hours. The Parties may, by agreement, modify this provision in the context of a particular deposition as may be appropriate to facilitate enhanced coordination.

54. Absent agreement of the Parties or as otherwise ordered by the MDL Court for good cause shown, a deposition day of a witness testifying remotely from Saudi Arabia shall commence at 7:30 a.m. Eastern Daylight Time (U.S.), and a deposition day of a witness testifying from the United States shall commence at 9:00 a.m. in the location where the witness is appearing. In the event witnesses appear from other locations, the Parties and counsel for the witness shall confer in good faith on an appropriate starting time.
55. The time limits for a deposition set forth above shall be based on the actual time spent in examining the witness. Time spent on attorney colloquy and breaks (including for lunch) shall not be counted toward the time limit.
- 56.

Plaintiffs' Proposal	Al Rajhi Bank's Proposal
All time limits for depositions shall be increased by two times in the event that the witness requires a translator.	All time limits for depositions shall be increased by half in the event that the witness requires a translator.

57. The Parties are encouraged to make full and efficient use of each deposition day so as not to waste valuable time and incur unnecessary expenses. Not every witness will require an examination that lasts as long as the presumptive time limits set forth above. To the extent the Parties can anticipate such, they will attempt to agree to lesser time limits and, for planning purposes, will provide other deposition attendees with advance notice of any agreement to lessen the examination time. This procedure may be particularly useful in the event that more than one deposition is scheduled on a given day.

X. Examination, Objections, Confidentiality, Consultation

58. The Plaintiffs' Executive Committees shall designate an attorney to conduct the principal examination of each deponent on behalf of Plaintiffs with claims against Al Rajhi Bank. In the event Al Rajhi Bank designates multiple witnesses to testify as to matters included in Plaintiffs' 30(b)(6) notice, the Plaintiffs' Executive Committees may designate a distinct attorney to conduct the principal examination of each of the designees. Questioning by other attorneys for Plaintiffs with claims against Al Rajhi Bank shall be limited to appropriate follow up as to issues not fully addressed in the principal questioning and discrete matters not addressed in the

principal questioning, and must be conducted within the time limits for the deposition.

59. All objections, except those as to form, foundation, manner of taking the deposition, and privilege, are reserved until trial or other use of the depositions.
60. Counsel shall state all objections in a concise, nonargumentative, and nonsuggestive manner—i.e., counsel shall not make objections or statements in order to suggest an answer to a witness. Counsel shall not engage in colloquy in objecting to a question or responding to an objection. The phrases “objection as to form,” “objection as to foundation,” or similar language are sufficient and shall preserve all objections as to form and foundation until a Party seeks to use a deposition.
61. Any objection raised by one Party is preserved as to all other Parties on that side.
62. To determine whether there is a need to cure a defect in a question, counsel conducting the examination may ask the attorney lodging the form or foundation objection to identify the specific defect. If an explanation for the basis of the objection is requested, objecting counsel shall explain the basis for the objection.
- 63.

Plaintiffs’ Proposal	Al Rajhi Bank’s Proposal
Nothing herein shall prohibit counsel for a Party or for the deponent from objecting to preserve a privilege or confidentiality, to identify an ostensible mistranslation, or to enforce a limitation imposed by court order, law, or rule. Objections or interruptions to identify as ostensible mistranslation shall not be used to coach the witness, and shall be presented only where the circumstances indicate that the witness does not understand the question or is responding to a different question than the one the questioning attorney intended to present. If the attorney conducting the questioning believes that objections related to purported mistranslation issues are impeding the effective questioning of the witness, the questioning attorney may request that the witness be removed from the	Nothing herein shall prohibit counsel for a Party or for the deponent from objecting to preserve a privilege or confidentiality, to identify an ostensible mistranslation, or to enforce a limitation imposed by court order, law, or rule.

deposition during any discussions related to alleged mistranslation issues.	
---	--

64. Counsel may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation ordered by the Court, or to present a motion under Rule 30(d)(3).
65. When a question is pending, the witness must first answer the question before consulting with counsel, except that a witness may consult with counsel at any time for the purpose of (a) determining whether a privilege exists, (b) determining whether disclosure of information may violate an order of this Court or another court or may violate any other law, rule, or restriction, or (c) addressing an issue regarding confidentiality or whether the information sought is subject to an applicable protective order. Such consultations are attorney-client privileged and work-product protected. Attorney-witness conferences should be kept to a minimum and should not be employed to coach the witness or otherwise improperly shape the witness's testimony.
66. When a privilege or protection is claimed, to the extent a witness is able to answer questions relevant to the existence, extent, or waiver of the privilege (such as the date of a communication, who made the statement, to whom and in whose presence the statement was made, other persons to whom the contents of the statement have been disclosed, and such other information as may be necessary to determine the nature of the purportedly privileged communication), without waiving the privilege or protection, the witness should do so.
67. Treatment of Confidential Information in depositions is governed by section G of this Court's Protective Order (ECF No. 1900).

XI. Interpreters

68. The noticing Party bears the cost of securing a qualified and official interpreter for the deposition. In addition, counsel for any Party may bring its own interpreter to the deposition for the purpose of assisting that counsel. If a Party insists on use of a certain interpreter at a deposition, then that Party shall bear the cost of that interpreter.
69. Absent the Parties' agreement, for any witness who, at least fourteen (14) days before the deposition, states that he or she lacks sufficient familiarity with English to understand questions asked in English or to respond to questions in English, the Parties will secure a neutral interpreter. Counsel for the witness or defending Party shall promptly, but in any event no less than fourteen (14) days before the deposition, notify opposing counsel if a witness will require the use of an interpreter during a deposition.

70. If a fact witness does not indicate the need for an interpreter but then demonstrates an inability or unwillingness to respond to questions due to alleged language difficulty, any Party may bring the issue to the attention of the Court so that a proper remedy may be fashioned.
71. In the event that a Party or witness objects to an interpretation by the interpreter, the objecting Party has the right to raise its objection on the record to the interpreter, affording the opportunity for correction, and may file an errata sheet within forty-five (45) days after the date that the transcript is received by counsel for the Party or the witness. No witness shall be recalled for additional testimony absent a showing of good cause.
72. Any objection to the interpretation must be mindful of the requirements of Federal Rule of Civil Procedure 30(c)(2). Counsel shall refrain from argumentative or suggestive objections, and colloquy in the witness's presence shall be kept to a minimum. If unreasonably repeated or lengthy objections are raised concerning translations, the time to address them shall not count against the questioning side's time.
73. In the event that a Party or witness objects to repeated misinterpretations at a deposition, that Party or witness may, after meeting and conferring with the other Parties attending the deposition, stop the deposition and seek relief from the Court and a continuation of the deposition with another interpreter.

XII. Provision of Documents

74. All documents marked as exhibits will be attached to the original transcript and will be retained with the original transcript. The court reporter for each deposition will include in each deposition transcript a list of the exhibits referenced in the deposition.
75. During a deposition, copies of documents about which counsel plan to examine the deponent shall be provided to counsel for the deponent and counsel for the other Party participants. As a general rule, deposition exhibits should be shared electronically, through an appropriate share platform. To the extent possible, all exhibits should have printed Bates or other document control numbers affixed before distribution, which shall remain constant throughout the litigation.
76. Counsel shall use best efforts to mark exhibits sequentially and shall attempt to use previously marked exhibits in subsequent depositions rather than re-marking the same documents with different exhibit numbers.
77. Objections to the relevance or admissibility of documents used as deposition exhibits are not waived, and are reserved for later ruling by the Court.
78. If a Party chooses to use a document that is a translation of a foreign language document by showing it to the witness or by quoting from the translation at the deposition, the Party must also provide to the witness and other counsel a copy of

the original foreign language document. Counsel will meet and confer to discuss any further protocols regarding the sharing of foreign language documents and translations in advance of the deposition.

XIII. Transcript and Time to Review Transcript

79. All confidentiality designations of deposition testimony shall be made as authorized by the Protective Order (ECF No. 1900). Notwithstanding the terms of the Protective Order, the following shall apply to confidentiality designation of deposition testimony. The deposition transcript and video recording will be treated as Confidential Information or Material under the Protective Order (ECF No. 1900) for forty-five (45) days following the deposition and such treatment shall continue as to those portions of the deposition designated confidential by a Party or witness within forty-five (45) days after the deposition. Notice of such confidentiality designations shall be made in writing to the court reporter, with copies to opposing counsel, specifying the portion(s) of the transcript and exhibits that constitute or contain Confidential Information or Material and are to be marked as Confidential. Each Party's or witness's counsel, or his or her designee, shall be responsible for distributing confidentiality designations to counsel for other Parties.
80. Unless waived by the deponent, the deposition transcript shall be submitted to the deponent for correction and signature, and shall be corrected and signed before any notary or certified under penalty of perjury within forty-five (45) days after the date that the transcript is received by counsel for the witness. The Parties may agree to reasonable extensions of this deadline.
81. Corrections to a deposition shall be listed on an errata sheet signed by the deponent, and the court reporter shall serve copies of the errata sheet on all Parties and, if the deponent is not a Party purchasing the transcript, counsel for the deponent. Should the deponent fail to submit corrections within forty-five (45) days, the transcript will be presumed accurate, and all Parties shall have the right to use the copy sent to the deponent as if it were final and signed with no corrections needed. Parties in jurisdictions where rules do not provide for correction and signing of a deposition transcript reserve their objections to corrections made pursuant to this procedure.

XIV. Use of Depositions

82. Depositions may, to the extent authorized by the Federal Rules of Civil Procedure or the Federal Rules of Evidence, be used by or against any Party.
83. Depositions may, under the conditions prescribed in Federal Rule of Civil Procedure 32(a)(1)-(4) or as otherwise permitted by the Federal Rules of Evidence, be used by or against any Party (including parties later added and parties in cases subsequently filed in or transferred or removed to this Court that become part of this MDL) who (a) was present or represented at the deposition; (b) had reasonable notice of the deposition; or (c) within thirty (30) days after the filing of the deposition (or within sixty (60) days after becoming a party in this Court to an

action that is part of this MDL), fails to show just cause why such deposition should not be usable against such party.

XV. Witness Claim to Alternate Procedures

84. To the extent that any Party anticipates a witness asserting that applicable law requires a procedure other than that set forth herein or under the Federal Rules of Civil Procedure, the Party aware of the issue shall promptly notify all other Parties in writing. The Parties shall thereafter meet and confer in an effort to timely resolve the matter among the Parties so as to minimize any disruption to the scheduling of the deposition. To the extent the Parties are unable to resolve the issue, the matter shall be promptly presented for judicial resolution.

SO ORDERED

SARAH NETBURN
United States Magistrate Judge

DATED: